

MONTANA LEGISLATIVE HISTORY

Chapter 131 ~~19~~ 2001

Bill H 27 S _____ Original bill & history X c

H. Committee on LOCAL GOV'T

Hearing Date(s) 1/11 X c

EXEC. ACTION 1/18 X c

_____ c

_____ c

Date Out _____ c

S. Committee on LOCAL GOV'T

Hearing Date(s) 3/8 X c
& EXEC. ACTION

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes X No

Committee _____

Report _____

H. Comm. on JUDICIARY

HEARING & EXEC. ACTION: 2/5 X c

HOUSE BILL NO. 27
INTRODUCED BY J. MUSGROVE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE GOVERNING BODY OF A COUNTY TO PASS AN ORDINANCE CREATING A CURFEW FOR MINORS THAT APPLIES COUNTYWIDE OR TO ANY PORTION OF A COUNTY EXCEPT THOSE AREAS WITHIN THE BOUNDARIES OF AN INCORPORATED CITY OR TOWN; AND AMENDING SECTION 7-32-2302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-2302, MCA, is amended to read:

"7-32-2302. Establishment of curfew -- penalty. (1) ~~(a) A board~~ The governing body of a county ~~commissioners~~ may adopt an ordinance that establishes a curfew hour after which minors will not be allowed abroad on the public streets, roadways, or lands ~~within the confines of unincorporated cities and towns~~ of the county.

(b) The ordinance must contain a description of the area covered by the curfew. The curfew may be countywide or pertain to any portion of the county, including an unincorporated city or town. The curfew may not extend to any area within the boundaries of an incorporated city or town.

~~(2) The enforcement of the provisions of this section is enjoined upon~~ It is the duty of each any ~~officer and or official whose duty it is to enforce~~ enforcing the laws of the state to enforce the provisions of this section.

(3) A person convicted of violating a curfew ordinance adopted under subsection (1) shall be punished by a fine in an amount not exceeding \$75 or by a sentence of up to 10 hours of community service, or both."

- END -

Bill Draft Number: LC0322**Bill Type - Number:** HB 27**Short Title:** County authority to establish underage curfew laws**Primary Sponsor:** John Musgrove**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 51

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	03/28/2001			
(H) Signed by Governor	03/27/2001			
(H) Transmitted to Governor	03/19/2001			
(S) Signed by President	03/19/2001			
(H) Signed by Speaker	03/16/2001			
(H) Returned from Enrolling	03/15/2001			
(C) Sent to Printing	03/15/2001			
(H) Sent to Enrolling	03/15/2001			
(S) Returned to House	03/14/2001			
(S) 3rd Reading Concurred	03/14/2001	38	12	
(S) Scheduled for 3rd Reading	03/14/2001			
(S) 2nd Reading Concurred	03/13/2001	34	16	
(S) Scheduled for 2nd Reading	03/13/2001			
(S) Scheduled for 2nd Reading	03/12/2001			
(S) Committee Report--Bill Concurred	03/09/2001			(S) Local Government
(S) Committee Executive Action--Bill Concurred	03/09/2001	6	0	(S) Local Government
(S) Hearing	03/08/2001			(S) Local Government
(S) Referred to Committee	02/21/2001			(S) Local Government
(S) First Reading	02/21/2001			
(H) Transmitted to Senate	02/10/2001			
(H) 3rd Reading Passed	02/10/2001	74	26	
(H) Scheduled for 3rd Reading	02/10/2001			
(H) Motion Carried	02/09/2001			
(H) 2nd Reading Passed	02/09/2001	71	29	
(H) Scheduled for 2nd Reading	02/09/2001			
(H) Committee Report--Bill Passed	02/06/2001			(H) Judiciary
(H) Committee Executive Action--Bill Passed	02/06/2001	14	6	(H) Judiciary

(H) Hearing	02/05/2001		(H) Judiciary
(H) Taken from 2nd Reading; Rereferred to Committee	01/22/2001	99	0 (H) Judiciary
(H) Segregated from Committee of the Whole Report	01/22/2001	87	10
(H) 2nd Reading Not Passed	01/22/2001	49	50
(H) Scheduled for 2nd Reading	01/22/2001		
(C) Sent to Printing	01/19/2001		
(H) Committee Report--Bill Passed as Amended	01/19/2001		(H) Local Government
(H) Committee Executive Action--Bill Passed as Amended	01/19/2001	16	2 (H) Local Government
(H) Hearing	01/11/2001		(H) Local Government
(H) Rereferred to Committee	01/04/2001		(H) Local Government
(H) First Reading	01/03/2001		
(H) Referred to Committee	12/26/2000		(H) Judiciary
(C) Introduced Bill Text Available Electronically	11/22/2000		
(H) Introduced	11/22/2000		
(C) Pre-Introduction Letter Sent	11/13/2000		
(C) Draft in Assembly/Executive Director Review	10/18/2000		
(C) Draft in Final Drafter Review	10/18/2000		
(C) Bill Draft Text Available Electronically	10/17/2000		
(C) Draft in Input/Proofing	10/17/2000		
(C) Draft to Drafter - Edit Review [CAJ]	10/17/2000		
(C) Draft in Edit	10/17/2000		
(C) Draft in Legal Review	10/16/2000		
(C) Draft to Requester for Review	10/12/2000		
(C) Draft Request Received	10/11/2000		

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Musgrove	John
Drafter	Campbell	Bart
Primary Sponsor	Musgrove	John

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Counties (see also: Local Government)	Simple		CTY
Minors (see also: Family Law)	Simple		MIN

Additional Bill Information

Probable Fiscal Note: No

Preintroduction Required: N

Session Law Ch. Number: 131

DEADLINE

Category: General Bills

Transmittal Date: 02/23/2001

Return (with 2nd house amendments) Date: 03/31/2001

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 01-OCT-01

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on January 11, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Jeff Mangan, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. John Esp (R)
Rep. Dennis Himmelberger (R)
Rep. Hal Jacobson (D)
Rep. Rick Laible (R)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Ken Peterson (R)
Rep. William Price (R)
Rep. James Whitaker (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 83, HB 111, HB 27 1/08/01
Executive Action: HB 130, HB 111

HEARING ON HB 27

Sponsor: Rep. John Musgrove, HD 91, Havre

Proponents: Doug Kaercher, Hill County Commissioner
Lynn Jerenka, concerned citizen of Rudyard
Bill Kennedy, Yellowstone County Commissioner
Gary Felstad, MACO

Opponents: Brenda Waller, Helena citizen

Opening Statement by Sponsor:

Rep. John Musgrove, HD 91, Havre, stated the bill allows the governing body of a county to pass an ordinance creating a curfew for minors that applies county wide except those areas in an incorporated city or town, amending section 7-32-2302 MCA. {Tape : 1; Side : A; Approx. Time Counter : 0 - 3.7}

Proponents' Testimony:

Doug Kaercher, Hill County Commissioner,
This the bill will help to clear up late night extracurricular activities and has a do pass from MACO. This is a bill that prevents jeopardizing the public in areas that prove difficult to contain. Committee members may be in possession of a petition from some of his constituents, but it failed to inform you that the city of Havre is already under curfew. EXHIBIT(loh08a01){Tape : 1; Side : A; Approx. Time Counter : 3.7 - 5.4}

Lynn Jerenka, Citizen of Rudyard, said that in her community there is a high rate of underage drinking and vandalism. She believes that a curfew would help the small community. The curfews implemented by the sports teams seem to work, and she urges the committee to favor this bill.{Tape : 1; Side : A; Approx. Time Counter : 5.4 - 6.5}

Bill Kennedy, Yellowstone County Commissioner, said he stands in support of this bill.{Tape : 1; Side : A; Approx. Time Counter : 6.5 - 6.9}

Gary Felstad, MACO, said he would encourage the committee to support this bill. Having experience as a law enforcement officer, he thinks this bill would help manage those types of activities that are sometimes difficult for local jurisdictions to handle. {Tape : 1; Side : A; Approx. Time Counter : 6.9 - 7.7}

Opponents' Testimony:

Brenda Waller, Helena citizen, said that she isn't necessarily here to oppose this particular bill but would like the committee to think about the curfew issue generally. She is concerned with the

continuous restrictions we set on our young people. Many of the laws that we pass tend to hurt the good kids. She would like this committee to consider that vandalism is already against the law as well as underage drinking. When curfew laws are structured unwisely, young people are afraid to leave from parties because of the law. {Tape : 1; Side : A; Approx. Time Counter : 7.7 - 10.9}

Informational Testimony: none

Questions from Committee Members and Responses:

Rep. Laible asked how he envisions this working within the county.

Mr. Kaercher said that they would look at the structure of Havre's law, which is 10:00 on weekends for those under 13, and 11:00 for 18 and under. **Rep. Laible** asked how they deal with the youth who are employed, or are involved with school functions that cause them to be out later than that given time. **Mr. Kaercher** said that the police didn't ever stop a juvenile who was walking the streets. If by chance they were coming home from a function, there is discretion officers can use.

Rep. Lee asked if there is already one curfew plan in use, how would they adopt another. **Rep. Musgrove** replied that there have to be some competent people who set laws at the local level, and they would look at the recent laws and parallel any incorporated cities.

Rep. Lee asked if the sponsor would accept an amendment that stated the curfew times could be in conflict between the city and the county. **Rep. Musgrove** replied he would like to confer with the County Commissioner. There are probably many counties out there that don't have incorporated cities.

Rep. Price said that many of the communities have functions for graduation that go all night, and asked if the sponsor could see any trouble with administering those functions? **Rep. Musgrove** said the bill will be limited as to those types of activities.

Rep. Mangan asked if the commissioner would be imposing in an area that they may or may not want, and could he explain how the people of those areas would have the chance to testify or give their opinion. **Mr. Kennedy** replied that there isn't a curfew established outside the city limits in Yellowstone County. They would put the bill on the agenda and give the public a chance to give comments before the board were to vote on this. County Commissioners are going to have to work with people in the community. Young people attending supervised events have the right to stay out past the designated curfew because they are supervised by adults. **Rep. Mangan** asked what portion of the counties will be involved. **Mr. Kennedy** replied that they are concerned with where to place the curfew, because there would be a need of enforcement in those

areas. **Rep. Mangan** said that the 20-mile radius concerns him the most, where one farm may be included but one might not. **Mr. Kennedy** said the 20-mile radius is in the bill because the recreational areas need to be covered without covering the entire county. In law, he doesn't think a curfew can ever be enforced on private property.

Rep. Peterson asked if the bill is an enabling bill. **Mr. Kaercher** replied that they want the same ability as incorporated cities have. **Rep. Peterson** asked if the late night farmers will be subject to this law. **Mr. Kaercher** said enabling law enforcement to have the option of pulling underage persons over would also apply to farmers who are working late at night. **Rep. Peterson** said he is concerned about making sure that some legitimate exemptions are included in the laws.

Rep. Laible asked about the section relating to going from a county commissioner to a governing body of a county. Do the police have the discretion to enforce the provision? **Mr. Kaercher** replied that the discretion is an enabling tool for the counties and cities, therefore working fine for the counties.

Rep. Anderson asked if a county chose to establish a curfew in the recreation areas, would it drive the youth to another area. **Mr. Kaercher** replied that it could be a possibility.

Chairman Noennig asked if the language of the act has any requirements for adopting provisions to exercise discretion. He is concerned that it is an absolute liability offense, with no provisions for discretion, and language that could describe certain exceptions might need to be included. **Mr. Kaercher** replied the bill was taken from the incorporated cities and included counties, and they haven't looked at exemptions. **Chairman Noennig** asked if there are any exceptions that exist in the current cities and towns curfews. **Mr. Kaercher** said he isn't aware of any. {Tape : 1; Side : A; Approx. Time Counter : 10.9 - 30}

Rep. Lawson asked if they could explain the issue more clearly. **Mr. Kennedy** said this would enable legislation. This committee is getting more technical in examining what the pluses and minuses are. Cities across this state that have this curfew ordinance had the opportunity to have the public come forward with their responses as well as the law enforcement. As they passed the ordinance, they were asked to include many of the things asked here today within that ordinance. He doesn't think the committee wants to put all the components into this piece of legislation, such as who is exempted and so forth but to let local governments plan

those discrepancies according to their own individual communities.

Chairman Noennig asked if he had an objection to language that was broad enough, but also included the exemptions that the governing body deem appropriate. **Mr. Kaercher** said there would be no problem. *{Tape : 1; Side : B; Approx. Time Counter : 0 - 6.2}*

Closing by Sponsor:

Rep. Musgrove stated the law as it exists gives the counties authority, but the new language gives the authority for the entire county. In addition, it merely gives the authority to the proper government body to conduct hearings allowing the citizens of the county to either allow or disallow the curfew. The citizens ultimately have the control to regulate the decision, and he urges the committee to give this piece of legislation to the local governments so they can regulate this law. *{Tape : 1; Side : B; Approx. Time Counter : 6.2 - 8.8}*

HEARING ON HB 83

Sponsor: Rep. Gary Matthews, HD 4, Miles City

Proponents: none

Opponents: none

Opening Statement by Sponsor:

Rep. Gary Matthews, HD 4, Miles City said the bill repeals the naturalization statues under Montana code. The Montana Clerks are in charge of keeping the old naturalization records. The last time any Clerk of Court in the state of Montana did anything at all was 10 years ago. *{Tape : 1; Side : B; Approx. Time Counter : 8.8 - 11.3}*

Proponents' Testimony: none

Opponents' Testimony: none

Informational Testimony: none

Questions from Committee Members and Responses: none

Closing by Sponsor: Rep. Matthews closed. No comments

RESOLUTION 99-2

COUNTY CURFEW FOR MINORS

STATEMENT OF INTENT

Montana Counties support county commission discretion in setting curfews for minors in both unincorporated communities and the county at large.

EXHIBIT 1
DATE 11/11/01
HB 27

WHEREAS, Section 7-32-2302, MCA, allows County Commissioners the ability to establish curfew hours in unincorporated cities and towns throughout the County; and

WHEREAS, an established curfew hour within the confines of an unincorporated city allows law enforcement officials the ability to ticket minors in violation of said curfew; and

WHEREAS, minors leave the designated curfew area and drive to rural areas where no curfew hour exists, and

WHEREAS, allowing County Commissioners the ability to create a curfew hour throughout the county would assist law enforcement in encouraging public health and safety;

NOW, THEREFORE, BE IT RESOLVED that the Montana Association of Counties support legislation which would allow county commissioners to establish a curfew hour after which minors will not be allowed abroad in the public streets within the confines of unincorporated cities and towns of the county as well as the entire county.

SPONSOR: Hill County and MACo Districts 4 and 5

RECOMMENDATION Do Pass

PRIORITY: Medium

REFERRED TO: Health and Human Services Committee

ADOPTED: Annual Conference
September 29, 1999

Reaffirmed: Annual Conference; Havre, Montana
September 27, 2000

**HOUSE OF REPRESENTATIVE
ROLL CALL**

LOCAL GOVERNMENT COMMITTEE

DATE 1/11/01

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. MARK NOENNIG, CHAIR	X		
REP. ROD BITNEY V.C. MAJORITY	X		
REP. JEFF MANGAN, V C .MINORITY	X		
REP. JOAN ANDERSEN	X		
REP. LARRY CYR	X		
REP. D.HEMMELBERGER	X		
REP. RICK LAIBLE	X		
REP. BOB LAWSON	X		
REP. BRAD NEWMAN	X		
REP. BILL PRICE	X		
REP. JAMES WHITAKER	X		
REP. JOHN ESP	X		
REP. CINDY YOUNKIN	X		
REP. EILEEN CARNEY	X		
REP. HAL JACOBSON	X		X
REP. JESSE LASLOVICH	X		
REP. MICHELLE LEE	X		
REP. KEN PETERSON	X		

**MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER
LOCAL GOVERNMENT COMMITTEE**

DATE 1/11/01

BILL NO. HB 27

SPONSOR(S) Musgreave

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE
CIRCLE

NAME

ADDRESS

REPRESENTING

☒ POI	Doug Kercher	315 9th St. Havre	Hill Co.
☒ POI	Lynn Jurenka	Box 162 Rudyard	Hill Co.
☒ POI	Brenda WAHLER	108 11th Helena	self
POI			
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\LOCAL GOV\visitor register.frm

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on January 18, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Jeff Mangan, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. John Esp (R)
Rep. Dennis Himmelberger (R)
Rep. Hal Jacobson (D)
Rep. Rick Laible (R)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Ken Peterson (R)
Rep. William Price (R)
Rep. James Whitaker (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Rod Bitney, Vice Chairman (R)

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 221, 1/18/2001; HB 190,
1/18/2001
Executive Action: HB 83; HB 80; HB 27: HB 221

HEARING ON HB 190

Sponsor: Representative John Witt, HD 89

taking over the rest of the museums. **Lesley** replied by stating that they have a considerable amount of credibility.

Chairman Noennig asked why a local government entity is included in the bill with a nonprofit organization? Are they anticipating doing something different in the future. **Rep. Witt** replied the entities put into place were a result of the contract. **Lesley** said that when the original bill passed their committee was known as the Community Improvement Association, and as they grew they needed a separation of entities. Their responsibility in Fort Benton is all of the historical properties. {Tape : 1; Side : B; Approx. Time Counter : 23 - 26.2}

Closing by Sponsor:

Rep Witt believes that this is a good bill. It is good for the community, it's what the folks of Fort Benton as well as Fish Wildlife and Parks want. Tape : 1; Side : B; Approx. Time Counter : 26.2 - 28.4

EXECUTIVE ACTION ON HB 83

Motion: **Rep. Andersen** moved that HB 83 DO PASS. {Tape : 1; Side : B; Approx. Time Counter : 28.4 - 30}

Discussion:

Rep. Mangan checked with both Nancy Sweeney and Kathy Otto, currently under state law, under title 2, section 6, everything is a public record and can't be destroyed as of now.

Motion/Vote: **REP. ANDERSEN** moved that HB 83 DO PASS. Motion carried unanimously. 18-0. {Tape : 2; Side : A; Approx. Time Counter : 0 - 1.6}

EXECUTIVE ACTION ON HB 27

Motion: **Rep. Mangan** moved that HB 27 DO PASS. {Tape : 2; Side : A; Approx. Time Counter : 1.6 - 3.7}

Discussion:

Rep. Noennig explained the packet that he was given in opposition of the bill. EXHIBIT(1oh14a07)

The following exhibit
exceeds 10 pages.

Exhibit 7

1.18.01

HB 21

**The complete exhibit is located with the
minutes are at the
Montana Historical Society Archives
225 North Roberts
Helena, Mt 59620-1202
(406) 444-4775**

The committee wants the amendment to say "it provides for exceptions for approved activities" on line 16. Some of the exceptions are provided in the packet. The draft from **Rep. Musgrove** on line 23 says that you can be punished by a fine of \$75 or by a sentence of 10 hrs of community service, or both. In title 45, section 1, it says you have to prove a mental state to prosecute. The problem with this is you can't levy a fine and have community service, or both. **Musgrove** decided to have it be an absolute liability crime, which means someone violating the law is automatically guilty without having to prove a mental state.

Rep. Younkin asked if the statute in existing law, has a provision for the absolute liability. Does it mean that the county attorney would have made an adjustment. **Mangan** states that it doesn't have an absolute liability.

Motion/Vote: REP. YOUNKIN moved that HB 27 BE AMENDED. Motion carried unanimously. EXHIBIT(10h14a06) {Tape : 2; Side : A; Approx. Time Counter : 3.7 - 10.6}

Motion/Vote: REP. MANGAN moved that HB 27 DO PASS AS AMENDED. Motion carried 16-2 with Lee and Andersen voting no. {Tape : 2; Side : A; Approx. Time Counter : 10.6 - 11.9}

EXECUTIVE ACTION ON HB 80

Motion: Representative Mangan moved that HB 80 DO PASS {Tape : 2; Side : A; Approx. Time Counter : 11.9 - 12.5}

Discussion:

Rep. Mangan states that this bill requires people to give their location address, and not just their post address when they register.

Rep. Newman wants to know why the change will assist in the identification of the people. He wants to know if they will gain anything from it. **Rep. Younkin** states that the best example is on the board of registration card. She wants to know how you determine the precincts of the individual you are mailing too, if there isn't a postal address available. **Rep. Andersen** said it shouldn't be a problem for people who live in the same house as there is a permanent physical address. It is important for the election administrator to know what precinct you live in. **Rep. Laible** doesn't think the intent of the bill is to increase the number of voters, but instead to identify the voters. **Rep. Peterson** made it clear that all the examples that have been shown are for people on

EXHIBIT 6
DATE 1/18/01
HB 27

Amendments to House Bill No. 27
1st Reading Copy

For the House Local Government Committee

Prepared by Eddye McClure
January 16, 2001 (7:37AM)

1. Title, page 1, line 7.

Following: "TOWN;"

Insert: "PROVIDING FOR ABSOLUTE LIABILITY FOR A VIOLATION OF A
CURFEW ORDINANCE;"

2. Page 1, line 16.

Following: "curfew"

Insert: "and provide exceptions for approved activities"

3. Page 1, line 24.

Following: "."

Insert: "Absolute liability, as provided for in 45-2-104, is
imposed for a violation of this section."

- END -

3:03 12 mi

**HOUSE OF REPRESENTATIVE
ROLL CALL**

LOCAL GOVERNMENT COMMITTEE

DATE

1/18/01

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. MARK NOENNIG, CHAIR	X		
REP. ROD BITNEY V.C. MAJORITY			X
REP. JEFF MANGAN, V C .MINORITY	X		
REP. JOAN ANDERSEN	X		
REP. LARRY CYR	X		
REP. D.HEMMELBERGER	X		
REP. RICK LAIBLE	X		
REP. BOB LAWSON	X		
REP. BRAD NEWMAN	X		
REP. BILL PRICE	X		
REP. JAMES WHITAKER	X		
REP. JOHN ESP	X		
REP. CINDY YOUNKIN	X		
REP. EILEEN CARNEY	X		
REP. HAL JACOBSON	X		
REP. JESSE LASLOVICH	X		
REP. MICHELLE LEE	X		
REP. KEN PETERSON	X		



HOUSE STANDING COMMITTEE REPORT

January 19, 2001

Page 1 of 1

Mr. Speaker:

We, your committee on Local Government report that House Bill 27 (first reading copy - white) do pass as amended.

Signed:

Rep. B. H. H. H.
Representative Mark Noennig/Chair

And, that such amendments read:

1. Title, page 1, line 7.

Following: "TOWN;"

Insert: "PROVIDING FOR ABSOLUTE LIABILITY FOR A VIOLATION OF A CURFEW ORDINANCE;"

2. Page 1, line 16.

Following: "curfew"

Insert: "and provide exceptions for approved activities"

3. Page 1, line 24.

Following: "."

Insert: "Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section."

- END -

Committee Vote:

Yes 16, No 2.

151302SC.hdc

20
10
11
11

COMMITTEE PROXY

DATE _____

I request to be excused from the HOUSE LOCAL GOVERNMENT

Committee meeting this date because of other commitments. I desire to leave my proxy vote with _____

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/ AMENDMENT AYE NO

SENATE BILL/AMENDMENT AYE NO

HB 83	yes	
27	yes	
80	yes	
221	yes	
190	yes	
55		NO

Rep. Rob Kiley
(Signature)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on February 5, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 424 - 1-30-01**
HB 390 - 1-31-01
HB 27 - 1-31-01

Executive Action: HB 27 - DP
HB 201 - DPAA
HB 213 - DPAA

HEARING ON HB 424

Sponsor: Rep. Ken Peterson, HD 20, Billings said this Bill is designed to impose upon health care organizations the standard of ordinary care and any health care decisions that they make. Ordinary care, as defined on Page 2 of the Bill, means the degree of care that an ordinarily prudent health carrier or managed care entity would exercise under the same or similar circumstances. There is a new section which defines standard of care requirements for action for damages. It means there are certain steps to go through before you have a right to go to court to challenge the health care organization on the basis of their decision with respect to health care. It only applies to health care organizations if they make health care decisions.

This law was patterned after a law that was adopted in Texas and the Texas law was challenged in the federal court system in the 5th circuit. It was upheld. The experience, with respect to lawsuits, has been only three lawsuits which have arisen out of this law.

Proponents: Jerry Loendorf, Montana Medical Association,
EXHIBIT(juh29a01)

Dr. Jack McMahan, Retired Surgeon, Helena, MMA

Steven Artell, Executive Director, Montana Right to
Life, Helena

Al Smith, Montana Trial Lawyers Association, Helena,
EXHIBIT(juh29a02)

Dr. Donald Harr, MMA-MPA, Billings

Darrell Holzer, AFL-CIO, Helena

Clyde Dailey, AARP, Helena

Sami Butler, Montana Nurses' Association

Mary McCue, Executive Director, Montana Dental
Association.

Vote: Amendment #5 carried 16-3 with Reps. Holden, Rice and Younkin voting no.

Discussion: Reps. Clark, Shockley, Younkin, Newman, Mangan, Hurdle.

Motion/Vote: REP. NEWMAN moved that HB 201 DO PASS AS AMENDED. #6 Motion carried 13-7 with Reps. Shockley, Laszloffy, Clancy, Gutsche, Harris, Holden, and Hurdle voting no.

EXECUTIVE ACTION ON HB 27

Rep. Shockley announced, even though this Committee hasn't had a Hearing on HB 27, it has been on the floor and been sent down here for Executive Action.

Discussion: Reps. Laszloffy, Newman, Hurdle, Noennig, Mangan, Younkin, without objection Rep. Musgrove, Sponsor.

Motion: REP. NEWMAN moved that HB 27 BE AMENDED. #7 Motion withdrawn.

Motion: REP. LASZLOFFY moved a substitute amendment that HB 27 BE AMENDED. #8 Motion withdrawn.

Discussion: Reps. Laszloffy, Newman, Peterson, Noennig, Hurdle, Mangan, Wolery, Clark without objection, Rep. Musgrove, Sponsor.

Rep. Adams made a comment that he wasn't comfortable with the whole thing. He visualizes the law-abiding kids getting off the streets and roads and what do you have left?

{Tape : 3; Side : B; Approx. Time Counter : 9.7 - 29.3}

Motion/Vote: REP. NOENNIG moved that HB 27 DO PASS. Motion carried 14-6 with Reps. Shockley, Adams, Gutsche, Harris, Hurdle and Rice voting no.

EXECUTIVE ACTION ON HB 171

Motion: REP. EGGERS moved that HB 171 DO PASS. #10

Discussion: Rep. Newman, Mr. MacMaster.

Motion/Vote: REP. CLARK moved that HB 171 BE POSTPONED for one day. #11. Motion carried 17-1 with Rep. Shockley voting no.

EXECUTIVE ACTION ON HB 213

HOUSE OF REPRESENTATIVE
ROLL CALL

JUDICIARY

COMMITTEE

DATE 2-5-01

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JIM SHOCKLEY, CHAIR	✓		
REP. JEFF LASZLOFFY, V.C.	✓		
REP. PAUL CLARK, V.C.	✓		
REP. DARREL ADAMS	✓		
REP. GILDA CLANCY	✓		
REP. AUBYN CURTISS	✓		
REP. BILL EGGERS	✓		
REP. STEVE GALLUS	✓		
REP. GAIL GUTSCHE	✓		
REP. CHRISTOPHER HARRIS	✓		
REP. LINDA HOLDEN	✓		
REP. JOAN HURDLE	✓		
REP. JEFF MANGAN	✓		
REP. BRAD NEWMAN	✓		
REP. MARK NOENNIG	✓		
REP. KEN PETERSON	✓		
REP. DIANE RICE	✓		
REP. BILL THOMAS	✓		
REP. MERLIN WOLERY	✓		
REP. CINDY YOUNKIN	✓		

House of Representatives

Roll Call Vote

JUDICIARY

COMMITTEE

DATE 2-05-01 Bill NO. 141327 NUMBER #7MOTION: Rep. Newman moved an amendment
Withdrawn

Name	AYE	NO
Rep. Jim Shockley, Chairman		
Rep. Jeff Laszloffy, Vice Chair Majority		
Rep. Paul Clark, Vice Chair Minority		
Rep. Darrel Adams		
Rep. Gilda Clancy		
Rep. Aubyn Curtiss		
Rep. Bill Eggers		
Rep. Steve Gallus		
Rep. Gail Gutsche		
Rep. Christopher Harris		
Rep. Linda Holden		
Rep. Joan Hurdle		
Rep. Jeff Mangan		
Rep. Brad Newman		
Rep. Mark Noennig		
Rep. Ken Peterson		
Rep. Diane Rice		
Rep. Bill Thomas		
Rep. Merlin Wolery		
Rep. Cindy Younkin		

House of Representatives

Roll Call Vote

JUDICIARY

COMMITTEE

DATE 2-05-01 Bill NO. NB27 NUMBER #8MOTION: Rep. Laszloffy moved substitute
amendment withdrawn

Name	AYE	NO
Rep. Jim Shockley, Chairman		
Rep. Jeff Laszloffy, Vice Chair Majority		
Rep. Paul Clark, Vice Chair Minority		
Rep. Darrel Adams		
Rep. Gilda Clancy		
Rep. Aubyn Curtiss		
Rep. Bill Eggers		
Rep. Steve Gallus		
Rep. Gail Gutsche		
Rep. Christopher Harris		
Rep. Linda Holden		
Rep. Joan Hurdle		
Rep. Jeff Mangan		
Rep. Brad Newman		
Rep. Mark Noennig		
Rep. Ken Peterson		
Rep. Diane Rice		
Rep. Bill Thomas		
Rep. Merlin Wolery		
Rep. Cindy Younkin		

House of Representatives

Roll Call Vote

JUDICIARY

COMMITTEE

DATE 2-05-01 Bill NO. 14327 NUMBER H9MOTION: Rep. Noennig moved Do Pass
Motion carried 14 to 6

Name	AYE	NO
Rep. Jim Shockley, Chairman		✓
Rep. Jeff Laszloffy, Vice Chair Majority	✓	
Rep. Paul Clark, Vice Chair Minority	✓	
Rep. Darrel Adams		✓
Rep. Gilda Clancy	✓	
Rep. Aubyn Curtiss	✓	
Rep. Bill Eggers	✓	
Rep. Steve Gallus	✓	
Rep. Gail Gutsche		✓
Rep. Christopher Harris		✓
Rep. Linda Holden	✓	
Rep. Joan Hurdle		✓
Rep. Jeff Mangan	✓	
Rep. Brad Newman	✓	
Rep. Mark Noennig	✓	
Rep. Ken Peterson	✓	
Rep. Diane Rice		✓
Rep. Bill Thomas	✓	
Rep. Merlin Wolery	✓	
Rep. Cindy Younkin	✓	

14

6



HOUSE STANDING COMMITTEE REPORT

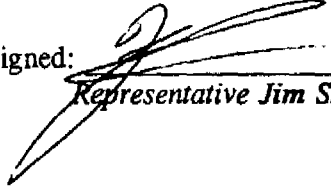
February 6, 2001

Page 1 of 1

Mr. Speaker:

We, your committee on Judiciary report that House Bill 27 (first reading copy - white) do pass.

Signed:


Representative Jim Shockley, Chair

- END -

Committee Vote:
Yes 14, No 6.

301327SC.hdc

2/6
ma

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2/05/01

BILL NO. HB 27

SPONSOR(S) _____

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
☒ P O I	<u>Matt Dumas</u>	<u>Carroll College Helena</u>	
☒ P O I	<u>Gordon Morris</u>		<u>MAC</u>
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

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MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 8, 2001 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Ken Miller (R)
Sen. Ken Toole (D)

Members Excused: Sen. John Cobb (R)
Sen. Emily Stonington (D)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 27, 3/5/2001
HB 30, 3/5/2001
HB 383, 3/5/2001
HB 469, 3/5/2001

Executive Action: HB 27 BC
HB 383 BC
HB 469 BCAA

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON HB 27

Sponsor: REP. JOHN MUSGROVE, HD 91, HAVRE

Proponents: Doug Kaercher, Hill County Commissioner
Jim Smith, Lobbyist, Hill County Sheriff
Gordon Morris, Director, MT Assoc. of Counties
Charles Brooks, Lobbyist, Board of Commissioners,
Yellowstone County

Opponents: None

Opening Statement by Sponsor:

REP. JOHN MUSGROVE, HD 91, HAVRE. After being heard in the House Local Government Committee, HB 27 went to the House floor and was referred to House Judiciary for review. It was scrutinized by several lawyers and was returned with no changes. The bill was brought forward under resolutions from MT Assoc. of Counties (MACO) with the support of Hill county commissioners. Some people are concerned with the concept of curfew under any conditions. Bills have come forward to put children in uniforms, to give children breakfast and lunch, etc. Why shouldn't society have them home safe and in bed at a proper hour. When he was a boy, the whistle blew every night at 9:00 p.m. signaling young people and their parents that it was time for children to be home. Curfews do work. Some people are under the impression that a curfew for minors allows harsh government officials to abuse their power by oppressing youth. Usually, concerned parents want help in their parenting. They go to the appropriate officials and say, "We need a curfew to help in this area." That was exactly what happened to prompt this bill. A group of concerned citizens in Havre wanted to extend the Havre curfew out into the boundaries of the county. When they went to the county commissioners they found the county did not have the authority to do so. This bill asks for authority for the counties to impose a curfew if they so chose. Some counties will and some counties might not.

Proponents' Testimony:

Doug Kaercher, Hill County Commissioner. He urged support of the bill as an option tool for counties to help curb late night extracurricular activities especially in counties with enticing recreational areas outside incorporated city limits.

Jim Smith, Lobbyist, Hill County Sheriff. He had been asked to represent Hill County Sheriff, Tim Solomon. Sheriff Solomon had

sent a letter of recommendation and support **EXHIBIT(los53a01)**. He read portions of the letter to the committee.

Gordon Morris, Director, MT Assoc. of Counties. He asked for the committee's support.

Charles Brooks, Lobbyist, Board of Commissioners, Yellowstone Co. All three Yellowstone county commissioners are in support of HB 27. They urged the committee's support.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER was not familiar with statute 45-2-104 as mentioned in the bill. He asked for an explanation of "absolute liability." **REP. MUSGROVE** replied that it means if a person is charged with a crime, they are probably guilty. If you go through a stop sign and are stopped by a policeman, you are guilty under that statute. That was one of the issues that was of concern on the floor of the House and sent to Judiciary to review. Absolute liability is a factor in most of the laws of this nature. When there are two penalties imposed or the possibility, \$75 or 10 hours of community service, the county attorney would have to prove the mental state if absolute liability were not imposed. For the county commissioners' ease and for this type of statute that is being asked for, absolute liability with the exceptions portion of the bill on line 18 "provide exceptions for approved activities" was necessary. These exceptions are very broad. There are several city ordinances that would be available as examples of those exceptions. People at the local level help put the code together for the exceptions that fit the needs of their community.

SEN. CHRIS CHRISTIAENS inquired about the language stating a curfew may be countywide or a portion of the county. Could the county commissioners say, "Anyone found north of the river in the wooded area, after 10:00 p.m., would be in violation of the county curfew that pertains to that specific area of the community." **Doug Kaercher** answered that Hill County has two areas of concern outside the city limits. One is south and is a 10,000 acre county park. The other is a recreational area, Fresno Reservoir. When the curfews come on in the city, the kids disperse to those recreational areas. Hill County has trouble also because of the highline towns along Highway 2. If the counties are allowed the authority, they would make their ordinance countywide.

SEN. CHRISTIAENS asked how the commissioners were going to educate the youth as to the areas that would have curfews if they did not make the curfew countywide. **Mr. Kaercher** answered that in their park, it is completely fenced in and could easily be posted. The same is true of the Fresno recreational area. He could not elaborate on other counties.

SEN. CHRISIAENS wanted to know what the final penalty would be for someone who violates a city curfew. Would it be the \$75 and/or 10 hours of community work. **Mr. Kaercher** felt that it was the same or similar to the cities since this bill was patterned after the curfew authority given to them.

CHAIRMAN DALE MAHLUM asked if the commissioners currently impose a curfew in their community. **Mr. Kaercher** replied that in the City of Havre, there is a curfew. The county commissioners are not allowed to do so at this time.

Closing by Sponsor:

REP. JOHN MUSGROVE closed.

HEARING ON HB 30

Sponsor: **REP. GARY MATTHEWS, HD 4, MILES CITY**

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. GARY MATTHEWS, HD 4, MILES CITY. House Bill 30 comes at the request of the Law, Justice and Indian Affairs Interim Committee. In 1999, MT Supreme Court held that the plain meaning of section 52-5-109, MCA, limits counties to paying for the transportation of committed youth within the state. Therefore, this Section is amended to read "within the state." The House Local Government Committee did include the Riverside Correctional Facility. That facility is for female juveniles in Montana.

Questions from Committee Members and Responses:

SEN. CHRIS CHRISTIAENS asked **Dave Ohler, Chief Legal Counsel, Department of Corrections** the following question. What is the purpose of the bill. **Dave Ohler** gave some background to the bill. There was a case in Lincoln County and it concerned a

EXECUTIVE ACTION ON HB 27

Motion: SEN. CHRISTIAENS moved that HB 27 BE CONCURRED IN.

Discussion:

SEN. DUANE GRIMES commented about the absolute liability issue. He had not used this term before and did not know it was in statute. After discussion with SENATOR LORENTS GROSFIELD and Greg Petesch, he might like to re-refer this bill to Judiciary if for no other reason than to highlight the "absolute liability" issue in order to impart this knowledge to the judiciary committee members.

SEN. HARGROVE asked what absolute liability means.

SEN. GRIMES said that means the county attorneys do not have to prove knowingly or negligently. If young people are out after curfew, whether they are knowledgeable of the law or not, they are guilty. If the fine is less than \$500 and a misdemeanor, this would apply. He didn't know that before and was startled to find that he didn't know this language.

Leanne Kurtz informed the committee that statute 45-2-104 states that basically, except for deliberate homicide or an offense that involves absolute liability, a mental state has to be proven. In the House, the discussion was that county attorneys might not be interested in pursuing this if they had to prove the mental state of a person if they were knowingly or negligently violating a curfew.

SEN. BOHLINGER felt the bill and its stated penalties were good and not as onerous as the fines for a misdemeanor. Young people would be guilty just by being there after curfew and the police could round them up.

SEN. CHRISTIAENS explained the reason he asked about the north side of Havre is because he knew about the area from his own youth. He felt the bill makes sense.

Vote: Motion carried 6-1 with Toole voting no.

(Senators Cobb, Elliott, Glaser and Stonington were out of the room)

HILL COUNTY

TIM C. SOLOMON, SHERIFF
DON BROSTROM, UNDERSHERIFF

SHERIFF'S OFFICE

P.O. Box 176
1450 Second St. West
Havre, Montana 59501

Senate Local Govt. Comm.

Exhibit No. 1Date 3-8-01Bill No. HB 27

January 29, 2001

Representative John Musgrove
820 8th St.
Havre, MT 59501Representative Musgrove,
Committee Members;

As Sheriff of Hill County for 16 years I have seen the effects of juvenile crime on the citizens of Hill County. Most of these incidents occur at night and in remote locations where juveniles believe they are away from law enforcement scrutiny. With no enforceable curfew, no ability to stop and question juveniles as to their activities in these areas is non-existent.

HB 27 would give county law enforcement an added resource in the protection of citizens and property in non-incorporated areas of counties by granting county commissioners the authority to adopt curfews countywide. The impact of curfews in incorporated towns in Montana has had a measurable effect on the incidents of juvenile crimes. Not only does it aid officers in identifying at risk youth and trends, but in deterring some crimes all together.

I fully support HB 27 and believe that the impact of such a simple and clear-cut bill would have an enormous impact not only on property owners and citizens, but the youth as well. Thank you for your attention and consideration in this very important matter.

Respectfully,

Tim C. Solomon,
Sheriff of Hill County

**MONTANA SENATE
2001 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE**

ROLL CALL

DATE _____

3-8-01

[illegible]



SENATE STANDING COMMITTEE REPORT

March 8, 2001

Page 1 of 1

Mr. President:

We, your committee on Local Government recommend that House Bill 27 (third reading copy - blue) be concurred in.

Signed:

A handwritten signature in cursive script, appearing to read "D. Mahlum", written over a horizontal line.

Senator Dale Mahlum, Chair

To be carried by Senator Jon Tester

- END -

Committee Vote:
Yes 6, No 0.

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SM

DATE 3-8-01

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: HB 27, HB 30
HB 383, HB 469

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Doug Kaercher	406-265 5481	Hill County	HB 27		
Charles Brooks	698-2583	1/2 House	HB 27	✓	
Borden Shorris		MACU	HB 27 469	✓	
Jim Smil		Hill County Sheriff's Off.	HB 27	✓	
John Semple	443-7487	MT Fire Alliance	HB 469	✓	
Robert Throssel	412-0230	MT Assn. Clerk & Readers	HB 383	support	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY